IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.Rev.Pet.No. 188 of 1999()

CRA.146/1996 of ADDITIONAL SESSIONS JUDGE, THODUPUZHA
CC.409/1992 of JUDL. MAGI. OF FIRST CLASS-I, THODUPUZHA

.....

REVN. PETITIONER/APPELLANT/ACCUSED

AJI S/O.KUTTAPPAN, EDAPPATTU HOUSE,
4TH BLOCK BHAGOM, KADAVOOR VILLAGE,
KOTHAMANGALAM.

BY ADV. SRI.J.JOSEPH

RESPONDENTS/RESPONDENTS/COMPLAINANTS

---

1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. FOREST RANGE OFFICER, MULLARINGADU.

BY PUBLIC PROSECUTOR MR.P.RAVINDRA BABU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K. BALI, C.J.

Crl.R.P.No.188 of 1999

Dated, this the 22nd day of November, 2006

ORDER

V.K.Bali,C.J.(Oral)

The petitioner along with his co-accused (A2 to A4) was tried for offence under Section 27(1)(g) and 27(2)(c) of the Kerala Forest Act and sentenced to undergo simple imprisonment for four months each under Section 27(1)(g) and four months each under Section 27(2)(c) of the Kerala Forest Act and the sentences were ordered to run concurrently, vide order dated 23rd May, 1996 passed by the Judicial Magistrate of the First Class-I, Thodupuzha. In the appeal preferred against the order aforesaid by the petitioner the learned Sessions Judge, Thodupuzha vide order dated 24th September, 1998 modified the judgment and sentenced him to undergo simple imprisonment for two months each under Section 27(1)(g) and 27(2)(c) of the Kerala Forst Act and the sentences were ordered to run concurrently. It is against this order that the present revision has been filed.

2. The allegation against the petitioner was that he along with his co-accused on 15.12.1991 trespassed into the reserve

forest at Theeyeriyan Thayekudi bhagam in Chathamattam beat within the Mullaringadu Range and Thodupuzha Reserve and felled two teakwood trees costing Rs.2150/-, thereby causing a loss of Rs.2500/- to the Government.

3. The learned counsel appearing for the petitioner without joining issues on the merits of the case contends that the occurrence pertains to the year 1991 and in the manner aforesaid the petitioner has already suffered agony of a protracted trial spanned over a period of more than 15 years and at this distance of time he may not be sent to serve a jail term.

4. In totality of the facts and circumstances of the case, this Court is of the view that interests of justice will be served if while maintaining the order of conviction the petitioner is asked to pay a fine of Rs.2500/- instead of undergoing the jail term. Ordered accordingly. If the fine amount is not paid as mentioned above, the petitioner would undergo the jail term as imposed by the lower appellate court.

The revision petition is disposed of accordingly.

V.K. BALI,
CHIEF JUSTICE.

vns